

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

DEBORAH KOSTELNIK, KYLE
KOSTELNIK, BRYANA RUEGE,
and DOUGLAS MCCABE,

Plaintiffs,

v.

GFM MAINTENANCE, LLC, DBI
SERVICES, LLC and DANIELA
POBLETE,

Defendants.

CASE NO. _____

NOTICE OF REMOVAL

PLEASE TAKE NOTICE that Defendant GFM Maintenance, LLC (“Defendant GFM”) hereby removes this action to the United States District Court for the Northern District of Georgia from the State Court of Fulton County with the unanimous consent of Defendants DBI Services, LLC and Daniela Poblete. In support of this Notice, and pursuant to 28 U.S.C. § 1446, Defendant GFM states the following:

1. On or about June 6, 2023, this action was commenced by Plaintiffs in the State Court of Fulton County, Georgia (Civil Action No. 23EV003346) and is currently pending. Defendant GFM was served with a copy of the Summons and Complaint on or about June 22, 2023.

2. Defendant GFM is filing herewith a copy of the Court file, which includes the Complaint, attached hereto as Exhibit A, Plaintiffs' First Request for Admissions, attached hereto as Exhibit B, and the Notice of Filing Notice of Removal in State Court of Fulton County as Exhibit C.

3. Defendant GFM has not been served with any other papers, pleadings or orders in this matter.

4. Defendant GFM has not filed an answer or otherwise responded to the Complaint. This Notice of Removal is filed within thirty (30) days of Defendant GFM's receipt of Plaintiffs' Complaint setting forth their claims for relief and is timely filed under 28 U.S.C. § 1446(b).

5. This Court has original subject matter jurisdiction over this action under 28 U.S.C. § 1332 because complete diversity of citizenship exists between Plaintiffs and Defendants, provided Plaintiffs have stated a claim and further that Plaintiffs have not caused any procedural defects to have been made.

6. At all times relevant to this action, Plaintiffs were residents of Florida. (Compl. ¶¶ 1-4).

7. As to the following Defendants:

- (a) Defendant GFM is a Virginia limited liability company with its principal place of business in Illinois. For purposes of 28 U.S.C. § 1332(a), Defendant GFM is therefore a citizen of the state of Illinois. Defendant GFM is not a citizen of Georgia because it is neither incorporated in Georgia nor does it have its principal place of business in Georgia.

- (b) Defendant DBI Services, LLC is a Delaware limited liability company with its principal place of business in Pennsylvania. For purposes of 28 U.S.C. § 1332(a), Defendant DBI Services, LLC is therefore a citizen of the state of Delaware. Defendant DBI Services, LLC is not a citizen of Georgia because it is neither incorporated in Georgia nor does it have its principal place of business in Georgia.
- (c) Defendant Daniela Poblete is an individual who was residing or domiciled in the State of Illinois at the time of the accident. For purposes of 28 U.S.C. § 1332(a), Defendant Daniela Poblete is therefore a citizen of the state of Illinois.

8. Thus, complete diversity of citizenship exists between all parties in this action.

9. In their Complaint, Plaintiffs allege claims based upon personal injuries sustained on June 24, 2021, in a motor vehicle accident. Plaintiffs have pled multiple causes of action for negligence and vicarious liability which seek damages for injuries sustained, pain and suffering, and costs of treatment. Based on the foregoing and a careful review of the Complaint, Defendant GFM has a reasonable and good faith belief that Plaintiffs' alleged damages, and therefore the amount in controversy, more likely than not exceeds Seventy-Five Thousand Dollars (\$75,000.00), exclusive of interest and costs.

10. This Court also has original subject matter jurisdiction arising under the Constitution, laws, or treaties of the United States. Accordingly, Defendant GFM also remove this case pursuant to 28 U.S.C. § 1441, again provided Plaintiffs have stated a claim and further that Plaintiffs have not caused any procedural defects to have been made.

11. Venue of this removal action is proper under 28 U.S.C. § 1441(a) because this Court is the United States District Court for the district and division corresponding to the place where the state court action was pending.

12. This action is not an action described in 28 U.S.C. § 1445.

13. Written notice of the filing of this Notice of Removal has been served upon Plaintiffs and the remaining Defendants. The remaining Defendants consent to this removal.

14. A true and accurate copy of this Notice of Removal has been filed with the Clerk of the State Court of Fulton County, Georgia.

WHEREFORE, Defendant GFM gives notice that the above action initiated in the State Court of Fulton County, Georgia is hereby removed to the United States District Court for the Northern District of Georgia for the reasons set forth above.

Respectfully submitted this 21st day of July, 2023.

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Pro Hac Vice Motion Forthcoming*

CERTIFICATE OF SERVICE

I hereby certify that on the 21st day of July, 2023, I electronically filed the foregoing with the clerk of the court by using the CM/ECF system, which will send a notice of electronic filing to:

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